

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921



Dr. John E. O'Connor, Ed. D.
Superintendent
Tewksbury Public Schools
139 Pleasant Street
Tewksbury, Massachusetts 01876

Re: Complaint No. 01-14-1220
Tewksbury Public Schools

Dear Superintendent O'Connor:

This letter is to inform you that the U.S. Department of Education, Office for Civil Rights (OCR), is closing the investigative phase of the above-referenced complaint that was filed against the Tewksbury Public School (District). As you are aware, the Complainant alleged that the District failed to timely provide a student (Student) with services pursuant to his individualized education program (IEP) following a May 20, 2014 incident. Specifically, the Complainant alleged that although the District was provided with disability-related documentation indicating that the Student could not attend school, the District failed to convene the Student's IEP team to determine how to ensure that the Student was provided a free appropriate public education in the home-bound setting. OCR is closing this complaint because the District has entered into a Resolution Agreement (Agreement) that resolves the complaint allegations.

OCR evaluated this complaint pursuant to our jurisdiction under Section 504 of the Rehabilitation Act of 1973 and its implementing regulation found at 34 C.F.R. Part 104 (Section 504), as well as Title II of the Americans with Disabilities Act of 1990 and its implementing regulation found at 28 C.F.R. Part 35 (Title II), both of which prohibit discrimination on the basis of disability. The District is subject to the requirements of Section 504 because it is a recipient of Federal financial assistance from the U.S. Department of Education. It is also subject to the requirements of Title II because it is a public entity operating an elementary and secondary school program.

After receiving and reviewing the complaint, OCR contacted the Complainant and her advocate, who expressed an interest in the early resolution of the complaint. Following our telephone contact with the Complainant, OCR contacted you to discuss the case and the Complainant's interest in resolution. You indicated an interest in resolving the concerns presented within the complaint and suggested that OCR speak with the District's Special Education Administrator and the District's Out-of-District Coordinator. Following OCR's call with the aforementioned District Administrators, OCR was contacted by the District's Legal Counsel, Catherine L. Lyons, who reiterated the District's interest in resolving the concerns presented within the complaint.

As you are aware, on Friday, October 31, 2014, the District, via Legal Counsel, contacted OCR proposing a resolution of the complaint allegations under Section 302 of OCR’s Case Processing Manual. First, the District proposed providing the Student with a fully funded placement at XXXXXXXXXXXXXXX. Second, the District proposed providing School staff with comprehensive Section 504 training to address any potential systemic concerns presented within this complaint. OCR shared this proposal with the Complainant, who agreed that such remedies would resolve her concerns.

On November 21, 2014, the District voluntarily signed the Agreement (copy enclosed), which includes the above-described remedies to address the concerns presented within this complaint. Based on the District’s assurance that the provisions contained in the Agreement will be implemented, OCR considers the above-referenced case resolved as of the date of this letter. OCR is informing the District of this resolution by concurrent letter. OCR will monitor the District’s full implementation of the commitments contained in the Agreement.

This letter sets forth OCR’s determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR’s formal policy statements are approved by a duly authorized OCR official and made available to the public. The Complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

OCR would like to thank you and Attorney Lyons for your collaborative approach to the resolution of the concerns presented within this complaint. If you have any further questions regarding this letter or OCR’s processing of this complaint, please contact Senior Civil Rights Attorney Nicole Merhill at (617) 289-0040 or by email at Nicole.Merhill@ed.gov, or you may contact me at (617) 289-0120.

Sincerely,

/s/ Allen Kropp

Allen L. Kropp
Team Leader/Civil Rights Attorney

Enclosure

Cc: Catherine L. Lyons, Esq.